

REMARKS

Amendments to Specification

The specification is amended to bring the language into line with the currently amended claims. Subject matter headings have been added to the written description and the foreign patent numbers have been replaced by U.S. patent numbers wherever the corresponding patent number was available.

No new matter has been introduced by the amendments, which are all supported by the original text and drawings.

Amendments to the Claims

The claims are amended to avoid any apparent confusion with regard to the recitation of subject matter for which protection is sought. The amendments are neither broadening nor narrowing and are intended to improve the clarity of the original translated text, which is a translation from the original German language text.

Information Disclosure Statement

In supplement to the Information Disclosure Statement of record in this application, Applicant herewith submits a supplement Information Disclosure Statement identifying English language versions of the foreign language documents mentioned by the examiner on page 2 of the Action. It is expected that the examiner will acknowledge consideration of the English language versions of the foreign language documents already of record in the application.

Language Informalities

The examiner questions what is meant by "a coding". This term is used in accordance with its ordinary and customary meaning that can be found in Merriam-Webster unabridged dictionary wherein the term "code" is defined as: "to put in or into the form of symbols of a code (*transitive verb*)" or: "to classify or categorize by a code especially to facilitate tabulation ... *coding ... words into numbers so that answers to questions may be punched on tabulating cards ...*".

Accordingly, the term "a coding" simply means information in the form of a code. It is respectfully submitted that a person skilled in the art would readily understand the meaning of "a coding" given the information contained in the written description of this application.

The examiner questions the meaning of "one of the host lattices can also be formed by a mixed crystal." The examiner's confusion is not understood. A casual inquiry regarding the term "mixed crystal" using the search engine GOOGLE resulted in more than 380,000 hits. The expression "mixed crystal" simply means a crystal formed of a mixture of materials each of which is capable of crystallization. Exemplary illustrations can be noted for example in International Published Application WO/1999/030574, a copy of the abstract of which is appended hereto, as well as the abstract of the paper authored by W. N. Honeyman and M. K. Lee entitled "Properties of Mixed Crystals of Triglycine Sulfate and Selenate," *J. Phys. D: Appl. Phys.*, vol. 5, pgs 188-192. A copy of the abstract of this paper is appended hereto for the examiner's review. The examiner's attention is further invited to the description of the various embodiments of host lattices and dopants as specified in U.S. 4,452,843 and U.S. 4,451,530 which correspond to the European patents identified in paragraph 12. Copies of these patents have been submitted for the examiner's consideration in the Information Disclosure Statement submitted with this response.

The examiner also is confused by the term "complemented characteristically" and "complementarily overlap" because, according to the examiner, the use of "complement" and "complementarily" does not correspond to conventional usage of these terms.

Term "complement" and "complementarily" is used in accordance with the ordinary dictionary meaning of the word "complement", namely: "something that fills up or completes". As described in paragraph 19, the pairs of luminescent substances or luminescent substance mixtures is selected to have emission lines relevant for the coding overlap complementarily in difference spectral ranges in each case. Thus, the term "complemented" simply means that the individual subrange of emission spectrum or the first luminescent substance overlaps with the individual subrange of the emission spectrum of the second luminescent substance in a manner such that a joint emission range results from the combination of the individual emission spectra such that one complements or "completes" the other. It is respectfully submitted that a careful reading of the specification of the application will reveal that the term "complemented" or "complementarily" is appropriate in the context in which the term is used in this application and in the claims and such would be readily understandable to a person skilled in the art.

Claim Rejection

The claims stand rejected as being directed to non-statutory subject matter. Claim 18 has been amended to avoid any interpretation of the claim that could result in the claim encompassing two different statutory classes of invention and now recites a value document defined in a clear manner and defining an invention falling within the subject matter of 35 USC §101, as was originally intended.

Claims 17 and 18 have been amended in a manner that avoids the examiner's objection under 35 USC §112. Specifically, the various luminescent substances have been appropriately identified to avoid confusion between the different luminescent substances recited in the original claims. The amendment to claim 18, as noted above, furthermore now defines the inventive subject matter in a manner consistent with the original written description.

Claims 1, 13, 17 and 18 have been amended to avoid any question of indefiniteness under 35 USC §112. As noted above, "a coding" has a meaning that is clearly understandable and in accordance with the ordinary use of this term. Claim 17 has been amended as noted above to distinguish between the different luminescent substances recited in the claim. Claim 18 likewise has been amended to avoid any question of indefiniteness.

With regard to claim 2, this claim is expressed in the manner of a Jepson claim wherein the joint emission range is recited as extending in a range selected from the group consisting of three different ranges. It is respectfully submitted that this claim is in proper form and does not recite the different ranges in a manner inconsistent with Jepson format.

With regard to the rejection of claims 1, 17 and 18 based on the use of the term "complemented characteristically," the comments above with regard to the term "complemented" is believed to provide support for the use of the term "complemented characteristically" in claims 1, 17 and 18.

Likewise, the use of "complementarily" in claims 10, 11 and 16 is appropriate in view of the meaning "complementary" as derived from the specification of this application.

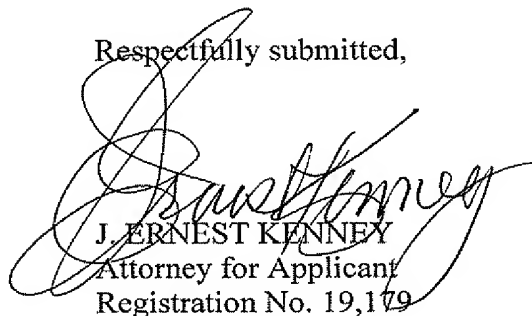
It is respectfully submitted that the application as currently amended removes all indefiniteness issues raised by the examiner and furthermore it is respectfully submitted that the original application would be understandable to a person skilled in the art given that none of the terminology used in the application is so far removed from reality that a person skilled in the art would have difficulty in understanding how to make and use the invention.

Application No.: 10/574,831
Examiner: Carol M. Koslow
Art Unit: 1793

Accordingly, the examiner is requested to conduct an appropriate prior art search and to provide Applicant with an examination report in the usual manner.

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Respectfully submitted,



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**ATTACHMENT TO RESPONSE TO OFFICE
ACTION IN 10/574,831**

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**(WO/1999/030574) MIXED CRYSTALS COMPRISING ASPARTAME AND
ASPARTAME DERIVATIVE AND PROCESS FOR PRODUCING THE SAME**

Biblio. Data Full Text National Phase Notices Documents

Latest bibliographic data on file with the International Bureau

Pub. No.: WO/1999/030574 International Application No.: PCT/JP1998/005532
Publication Date: 24.06.1999 International Filing Date: 07.12.1998
Chapter 2 Demand Filed: 23.06.1999
IPC: A23L 1/236 (2006.01), C07K 5/072 (2006.01)
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Priority Data: 9/344777 15.12.1997 JP
Title: MIXED CRYSTALS COMPRISING ASPARTAME AND ASPARTAME DERIVATIVE AND PROCESS
PRODUCING THE SAME
Abstract: Novel mixed crystals containing aspartame (APM) and N-[N-(3,3-dimethylbutyl)-L-\$g(a)\$-aspartyl]-L-
phenylalanine methyl ester and usable as sweeteners having considerably improved sweetness
properties, etc. The above mixed crystals can be easily produced industrially by subjecting a solution
containing the above-mentioned APM and APM derivative to crystallization followed by the separation
of the mixed crystals thus precipitated.
Designated BR, CA, CN, CZ, HU, KR, MX, RU, SK, US.
States: European Patent Office (EPO) (BE, CH, DE, FR, GB, IT, NL).
Publication Language: Japanese (JA)
Filing Language: Japanese (JA)

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Properties of mixed crystals of triglycine sulphate and selenate

W N Honeyman *et al* 1972 *J. Phys. D: Appl. Phys.* **5** 188-192 doi:
10.1088/0022-3727/5/1/326 [Help](#)

[Full text](#) [PDF \(202 KB\)](#) | [References](#)

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Abstract. Mixed crystals of triglycine sulphate and selenate have been grown from water solutions but with modified habits. Their spontaneous polarization far from the Curie point is approximately independent of composition. Their lowest refractive index α varies linearly with composition: from 1.484 for the sulphate to 1.499 for the selenate. The energy gap varies nonlinearly from 5.243 to 5.21 eV for the sulphate and selenate respectively, with a minimum value of 5.195 eV at approximately 30 mol% sulphate.

Print publication: Issue 1 (January 1972)
Received 12 July 1971

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